

## REMARKS

Claims 1 – 24 were pending in the application. In the above amendments, claims 1 – 7, 9 – 13, 18 – 20, and 22 – 24 are amended. Claims 14 – 17 are cancelled without prejudice or disclaimer, and claims 25 – 27 are newly added.

In the Outstanding Office Action, the Examiner: rejected claims 1 – 24 under 35 U.S.C. 112, second paragraph, for being indefinite; rejected claims 1 – 24 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,590,057 to Fletcher et al. (hereinafter referred to as “Fletcher”); rejected claims 8, 17, 20, and 21 under 35 U.S.C. 103(a) as being unpatentable over Fletcher in view of U.S. Patent No. 6,546,230 to Allison (hereinafter referred to as “Allison”); and, rejected claims 9, 10, 15, and 18 under 35 U.S.C. 103(a) as being unpatentable over Fletcher.

Applicant gratefully acknowledges a personal interview, held on May 19, 2008, between the Examiner and Applicant’s agents, in which it was agreed that amendments of the type presented herewith would render the present claims allowable at least over the cited art of record. Applicant requests that all outstanding rejections thereby be withdrawn in view of the amendments presented herewith, and that the present claims be permitted to proceed to allowance.

### **Summary and Support for the Above Amendments**

Independent Claims 1, 11, and 22 have been amended to recite *inter alia*:

- that users are assessed as individual personnel of an organization seeking the compliance certification;
- that the user is presented with evaluation questions which ask for information used to construct a profile of the organization;

- that the user is presented with those assessment questions which correspond to the constructed profile of the organization; and
- that the assessment questions ask for information which can be used to determine if the organization meet the requirements for the compliance certification.

New claims 25, 26, and 27 are presented to further clarify that responses to the assessment questions are scored in order to determine whether the organization seeking compliance certification at least in part meets the requirements the compliance certification.

Support for the above amended features regarding evaluation questions, assessment questions, and organization profiles may be found *inter alia* in paragraphs [0049] – [0051] and [0059] – [0062] of the Pre-Grant Publication of the present Application: “process 200 constructs a Laboratory Profile by asking a series of evaluation questions...This information is used in the...course to determine which (appropriate) questions would be shown to the user...[The] assessment is conducted using any number of questions...”

Support for the amended features regarding users being assessed as personnel of an organization seeking compliance certification, and regarding determination of whether the organization meets the requirements for the compliance certification, may be found *inter alia* in paragraphs [0041], [0042], and [0059] – [0062] of the same Publication: “registration with the ASP may be done by an employer or other sponsoring organization...Once registered, the sponsoring organization’s individual (authorized) personnel would then be able to access system 100 to take one or more self-assessments (i.e., courses) applicable to the sponsoring organization’s business activities in order to gain individual accreditation or compliance certification. (For example, a standards body may require, in order for a laboratory to receive a particular certification, that certain

of its personnel be certified...) In an alternate embodiment, the user of the system 100 would be one or more managerial personnel of the employer or other sponsoring organization...who would access system 100 to take one or more self-assessments (i.e., courses) applicable to the entire operation of the sponsoring organization...(For example, a standards body may require that a laboratory receive a particular certification, and allow the director of the laboratory to answer all questions related to its personnel and operations.); “In an embodiment, a Certificate of Accreditation / Certification based on the sponsoring organization and/or its personnel obtaining a score...greater than a pre-defined “cut-off” or “minimum passing score” may then be obtained...”

Claims 2 – 7, 9, 10, 12, 13, 18, 20, 23, and 24 are all amended to clarify that the claimed evaluation questions do not “comprise” the claimed assessment courses, as erroneously presented in the original filing, but are in fact “comprised by” the claimed assessment courses. Support for these amendments may be found throughout the originally-filed specification, including *inter alia* paragraph [0079] of the same Publication: “a self-assessment course includes a Question Unit which includes one or more groups of related self-assessment and/or evaluation questions.”

Claims 18 – 20, 23, and 24 are all also amended to correct informalities of dependency and number.

Claims 14 – 17 have been cancelled without prejudice or disclaimer. Applicant reserves the right to pursue the full scope of the these claims in all manners allowed by law, including through the enforcement of any patented claims, and/or through the filing of one or more continuing applications. The cancellation of claims 14 – 17, together with further amendments made to claims 23 and 24, are believed to better clarify the role of the claimed evaluation questions within the claimed assessment courses.

It is respectfully submitted that no new matter has been entered into the application, and that no excess claims fees are required.

**Rejection Under 35 U.S.C. §112**

The Examiner rejected claims 1 – 24 under 35 U.S.C. 112, second paragraph, as being indefinite. In the interview of May 19, 2008, the Examiner clarified that the then-claimed feature “wherein answers to evaluation questions are used...to determine which assessment questions are shown...” was sequentially positioned in the claims in a manner which rendered them indefinite.

**Response**

The above amendments are presented to address this issue. The feature identified by the Examiner has been repositioned and reworded for clarity. Accordingly, Applicant submits that the claims as presently amended are sufficiently definite, and request that all rejections under 35 U.S.C. 112, second paragraph, be withdrawn.

**Rejections Under 35 U.S.C. §102 and §103**

In the Outstanding Office Action, the Examiner: rejected claims 1 – 24 under 35 U.S.C. 102(b) as being anticipated by Fletcher; rejected claims 8, 17, 20, and 21 under 35 U.S.C. 103(a) as being unpatentable over Fletcher in view of Allison; and, rejected claims 9, 10, 15, and 18 under 35 U.S.C. 103(a) as being unpatentable over Fletcher.

**Response**

For a reference to anticipate an invention, all of the elements of that invention must be present in the reference. The test for anticipation under section 102 is whether each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131. The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP §2131.

Further, to establish a *prima facie* case of obviousness, the Examiner must establish: (1) that some suggestion or motivation to modify the references exists; (2) a reasonable expectation of success; and (3) that the prior art references teach or suggest all of the claim limitations. *Amgen, Inc. v. Chugai Pharm. Co.*, 18 USPQ2d 1016, 1023 (Fed. Cir. 1991); *In re Fine*, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988); *In re Wilson*, 165 USPQ 494, 496 (CCPA 1970).

By this Response and Amendment, Applicant respectfully traverses the Examiner's rejections, since the cited art does not disclose, teach or suggest all of the features of independent claims 1, 11, or 22 as amended, and thus of any claim dependent therefrom.

As noted in the Official Summary of the May 19, 2008 interview, "applicant's representative was advised to clarify the compliance certification by clarifying among other things: the content of the evaluation and assessment question, the construction of the company profile based upon user's answers, etc."

In accordance with the Examiner's advice, independent claims 1, 11, and 22 have been amended to clearly recite that users are assessed as individual personnel of an organization seeking a compliance certification; that the user is presented with evaluation questions which ask for

information used to construct a profile of the organization; that the user is presented with those assessment questions which correspond to the constructed profile of the organization; and that the assessment questions ask for information which can be used to determine if the organization meet the requirements for the compliance certification.

None of the these features as presently claimed are found in the cited art of Fletcher or Allison, and the Examiner strongly suggested in the interview that the introduction of these clarifying amendments would overcome the present rejections.

Accordingly, Applicant requests that the Examiner reconsider and withdraw the outstanding rejections, and allow the present application.

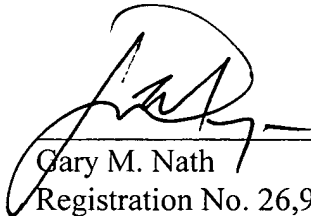
### **Conclusion**

In light of the foregoing, Applicant submits that the application is in condition for allowance. If the Examiner believes the application is not in condition for allowance, Applicant respectfully requests that the Examiner call the undersigned.

Respectfully submitted,  
**THE NATH LAW GROUP**

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**THE NATH LAW GROUP**  
112 South West Street  
Alexandria, VA 22314-2891  
Tel: 703-548-6284  
Fax: 703-683-8396

  
\_\_\_\_\_  
Gary M. Nath  
Registration No. 26,965  
Jerald L. Meyer  
Registration No. 41,194  
Matthew J. Moffa  
Registration No. 58,860  
Customer No. 20529